

REMARKS

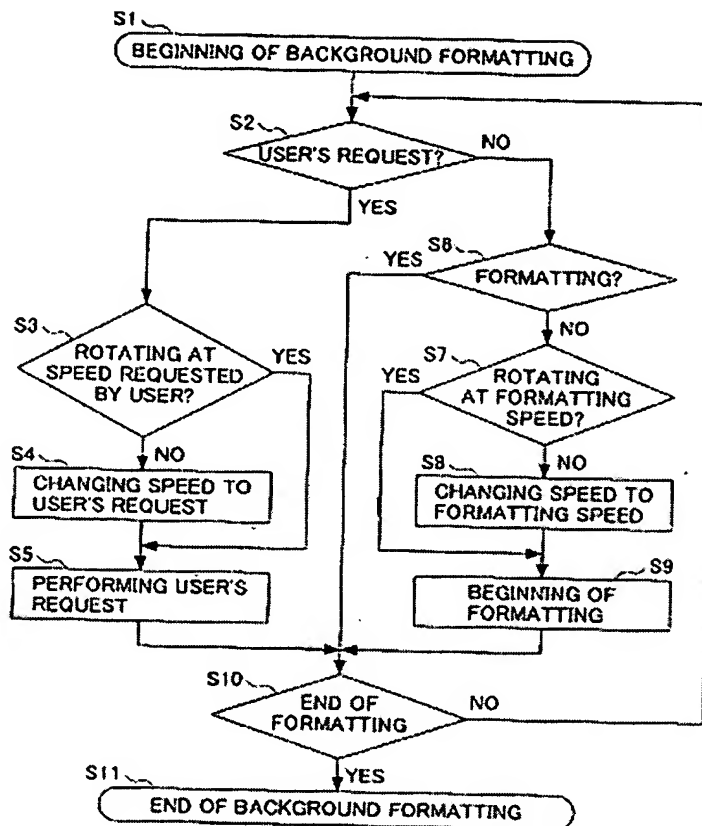
By this amendment, claims 9 and 18 have been amended. New claims 19-24 have been added. Claims 1-18 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claim 9 has been amended to replace the word "apparatus," which had been inadvertently deleted in an earlier amendment. Claim 18 has been amended to correct a typographical error. Accordingly, the claims are now in condition for allowance.

Claims 1-18 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed. The limitation "determining that the first rotation mode is not suitable for writing the user data in response to receipt of the user request" finds support in the specification with FIG. 6 (reproduced below), at the "N" branch of decision step S3, and step S4. The accompanying description on page 16, ln. 16-24 recites that "the controller 13 further checks whether the disc is rotating at a speed suitable for the storing and reproducing of the user's request (S3). If the disc is not rotating at a speed corresponding to the speed of storage and reproduction designated by the user (N branch of S3), the controller 13 changes the rotating speed of the spindle motor 4 through the rotation control unit 10 (S4)" (emphasis added).

Furthermore, "a first rotation mode" finds support both in the summary of the invention and in the claims as originally filed, and is used within the specification with an embodiment which includes the specific example of "speed". Although the Office Action asserts that "NO determination if a first mode is suitable for recording/reproducing is found" (emphasis in original), Applicant respectfully submits that the decision step S3 makes such a determination, as described above.

Specification FIG. 6



In addition, although not documented by the parties, Applicant's representative discussed the rejection with the Examiner, and the amendments made in the Amendment dated April 19, 2006, were based on the Examiner's suggestions at the time. Applicant respectfully requests that the rejection of these claims be withdrawn. The scope of the claimed invention should be determined according to the claims and not limited to the examples provided in the specification.

Claims 1, 8, 9, and 16-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hashimoto (US 6,172,955). This rejection is respectfully traversed.

Claims 1, 9, and 18 recite, *inter alia*, “background-formatting the recording medium in a first rotation mode suitable for the background-formatting, ... receiving a user request for writing user data ..., [and] determining that the first rotation mode is not suitable for writing the user data in response to receipt of the user request; [and] when it is determined that the first rotation mode is not suitable for writing the user data, rotating the recording medium in a second rotation mode and writing the user data to the recording medium” (emphasis added). Applicant respectfully submits that Hashimoto does not disclose these limitations.

To the contrary, Hashimoto discloses that “if it is determined ... that a request for recording is sent ..., the formatting operation is temporarily stopped so as to record a user data packet. After the recording of the user data packet ..., the routine proceeds.” Col 8, ln. 42-49. Hashimoto is silent with respect to recording modes for recording user data. Nor does Hashimoto disclose a step of determining that the formatting mode is not suitable for recording user data. Applicant respectfully submits that Hashimoto does not disclose a step of “determining that the first rotation mode is not suitable for writing the user data” and “rotating the recording medium in a second rotation mode and writing the user data” as recited in claims 1, 9, and 18.

Nor is such a limitation inherent, as Hashimoto further discloses “data corresponding to about 74 minutes can be recorded on a CD-RW. Thus, it takes about 40 minutes to complete a recording of data including the TOC even if the recording is performed at a double recording speed.” Col. 2, ln. 34-37 (emphasis added). Only one rotation speed is disclosed, a double recording speed. In context with the mention of 74 minutes being recordable on the disk, the double speed is twice a real-time speed (40 minutes being about half of 74 minutes). There is no mention at all of using multiple rotation speeds or modes or “determining that the first rotation mode is not suitable.”

The Office Action contends that changing the speed is inherent to recording in Hashimoto. However, the material quoted in the Office Action does not appear in Hashimoto, either in the indicated location, or anywhere else. The quotation of appears to be in error. As stated above, the only reference to any speed is "recording is performed at a double recording speed." Col. 2, ln. 35-37 (emphasis added). The double speed is used for the entire recording of data, and there is no inherent change in speed.

Since Hashimoto does not disclose all the recited limitations, claims 1, 9, and 18 are not anticipated by Hashimoto. Claims 8 and 16-17 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claims 1, 8, 9, and 16-18 be withdrawn.

Claims 2 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Horie (JP 2000-011380). This rejection is respectfully traversed. Claims 2 and 10 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 2 and 10 be withdrawn.

Claims 3-4 and 11-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Shirane (JP 07-262692). This rejection is respectfully traversed. Claims 3-4 and 11-12 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 3-4 and 11-12 be withdrawn.

Claims 5-7 and 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Seamons et al. (US 4,954,327). This rejection

Response to Non-Final Office Action dated February 8, 2006

is respectfully traversed. Claims 5-7 and 13-15 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 5-7 and 13-15 be withdrawn.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Dated: October 17, 2006

Respectfully submitted,

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